

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

ARCO MEDIA INC., JOHN/JANE DOES 1-
5,

Defendants.

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CIVIL ACTION NO. 4:19-CV-00901-RWS-CAN

ORDER

Plaintiff filed suit against the Defendants alleging violations of the Telephone Consumer Protection Act (“TCPA”) and the Texas Business Commercial Code. Docket No. 1. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On April 3, 2020, the Magistrate Judge entered a report and recommendation containing proposed findings of fact and recommendations on Plaintiff’s Amended Motion for a Default Judgment and Request for a Hearing to Determine Damages (Docket No. 13). The Magistrate Judge recommended the motion be granted-in-part and denied-in-part and that Plaintiff should be awarded \$1000 as statutory damages for Defendant Arco Media Inc.’s violation of § 227(b) of the TCPA. No party has filed any objections.

Because no objections to the Magistrate Judge’s Report have been filed, neither party is entitled to *de novo* review by the District Judge of those findings, conclusions and recommendations, and except upon grounds of plain error, they are barred from appellate review

of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. 28 U.S.C § 636(b)(1)(C); *Douglass v. United Services Automobile Assoc.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

Nonetheless, the Court has reviewed the motion and the Magistrate Judge's report and agrees with the report. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants.’”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)). It is accordingly

ORDERED that Plaintiff’s amended motion for default judgment and request for a hearing to determine damages (Docket No. 13) is **GRANTED-IN-PART** and **DENIED-IN-PART** in accordance with the Magistrate Judge’s recommendation. A default judgment shall be entered for Plaintiff.

SIGNED this 8th day of May, 2020.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE